

TOWN OF UNION SPECIAL MEETING

Minutes of Wednesday, May 19, 2010

The Town of Union Board special board meeting was called to order by George Franklin at 6:09 p.m. on Wednesday, May 19, 2010 at the home of George and Sharon Franklin, 13847 W. Hwy 59, Evansville, WI. In attendance were Supervisors George Franklin and Don Krajeck, Treasurer Sharon Franklin, and Clerk Regina Ylvisaker. Town Attorney Matt Dregne was in attendance via phone conference.

Conducting sound study in conjunction with APPI gravel pit CUP

Reviewed history of issue: the Board approved conducting a sound study during its review of complaints at a closed meeting in February 2010.

It was agreed by all that the Town should handle initiating and supervising the study to avoid any perceptions of bias. George Franklin will talk to Brett Frank with regard to paying for a portion of the cost of the noise study.

Recovery of Forfeitures (Maas MET Tower CUP)

Reviewed situation: CUP expired in September 2009. The Maas' have reapplied for a new CUP after the Town's legal counsel contacted Gary Haltaufderheide, who coordinated the original CUP application. Per Haltaufderheide, the project was sold from EcoEnergy to Acciona and it was during that transition that the issue of renewing the CUP was overlooked.

Per the Town's ordinances, the minimum daily forfeiture is \$50 per day, maximum is \$500 per day. Town Attorney Matt Dregne stated that he would contact the owner of the tower for the forfeitures, not property owner, and explain to them that they have been in violation of the Town's zoning ordinance for months. Dregne stated that he could suggest to the Plan Commission that a new conditional use permit not be issued until forfeitures have been paid. The minimum amount of forfeitures for the period of time they have been in violation is \$10,500 and the maximum is \$105,000; Dregne stated he would be comfortable requesting the minimum forfeiture at least. Dregne feels that a failure on the part of the company to be in compliance with the Town's ordinance shows a lack of regard for the Town's rules.

To clarify, if a lawsuit was filed, Don Maas as property owner and applicant would be named as defendant; however Dregne is not suggesting filing lawsuit at this time.

The Board could authorize Dregne to contact Haltaufderheide with an amount for forfeitures, and if no answer is received by the date of the Plan Commission meeting at which the new CUP application is to be considered then Dregne would suggest to the Plan Commission that they table the request until a decision on forfeiture payment by Acciona is made.

Dregne thinks the minimum forfeiture amount or something close to it is reasonable; Krajeck agrees. By not going with maximum forfeiture amount the Town is demonstrating some responsibility in not notifying them of the expiration of the CUP. However, to be clear, it is not the Town's responsibility to call and remind CUP holders of their responsibility to request renewal of their permits.

Motion to authorize legal counsel to contact Gary Haltaufderheide with a forfeiture amount of \$20,000 and request an answer by the Plan Commission meeting on May 27, 2010, and if no

answer has been received by that date legal counsel will recommend to the Plan Commission tabling of the application until an answer is received made by George Franklin. Second by Don Krajeck. Motion carried by unanimous voice vote.

Motion to adjourn made by Don Krajeck. Second by George Franklin. Motion carried by unanimous voice vote. Meeting adjourned at 7:02 p.m.

Respectfully submitted by Clerk Regina Ylvisaker

Note: minutes are considered draft until reviewed and approved by the Town Board at a properly noticed meeting.

6.1.10